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March 24, 2014

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BY ELECTRONIC MAIL AND FIRST CLASS MAIL

Russell P. Plato, Esq.
James D. Masterman, Esq.
Greenberg Traurig, LLP
One International Place
Boston, MA 02110

Re: Public Records Requests – Nantucket Board of Selectmen and Conservation Commission

Dear Counsel:

This is in response to the demand letter which you hand-delivered to my office at the close of business on Thursday, March 20, 2014. In your letter, you claim that the response of the Town of Nantucket (the “Town”) to the public records requests you have served on behalf of Patrick Ryan (the “Ryan Public Records Requests”) is “deficient” and have advised that you will proceed with a lawsuit in Essex Superior Court if the Town does not accede to several newly imposed demands by the close of business today.

At the outset, it should be noted that there is no possible way your newly asserted demands could be met in such a short period of time and it is clear that you intend to proceed on a litigious and adversarial stance with the Town no matter how much it does to satisfy your client’s overly broad and unreasonable demands.

In your letter, you wrongly assert that the Town’s response to the Ryan Public Records Requests is “incomplete” despite your “agreement” to grant the Town “multiple requested extensions.” You are very well aware that this is incorrect. The Town responded to your overly broad requests within ten days as required, and promptly set up, at its own expense, a software system by which the countless e-mails you demanded from individual Town officials, agents and employees could be processed.

To date, the Town has produced more than six thousand pages of e-mails from Town Administration and staff, and from individual Board of Selectmen and Conservation Commission members. You have refused to limit the scope of the requests to any reasonable time period or specific subject matter, resulting in countless hours retrieving and sifting through material which has no reasonable relation to any matter of substantive importance. The Town has not requested “multiple extensions” but has produced documents on a rolling basis, which is the only reasonable way of responding due to the overly broad nature of the requests.

For some time now, you have been demanding that the Supervisor of Records intervene in this matter, which the Supervisor has declined, due to the obvious good faith and diligent efforts of the Town in responding.

KOPELMAN AND PAIGE, P.C.

Russell P. Plato, Esq.
James D. Masterman, Esq.
December 5, 2013
Page 2

There are only two minor items outstanding. First, we are waiting on Conservation Commission Member Sarah Oktay's confirmation whether or not she has any additional responsive e-mails other than those previously produced by the Conservation Commission. We have also been advised that the Natural Resources Coordinator is still completing photocopying of the voluminous hard copy files of the Conservation Commission. However, as I have repeatedly advised you, this should not be a problem for you as the relevant application materials to the Conservation Commission for erosion control issues at Sconset Bluff have been publicly posted and made available to you for months. The additional required photocopying is nothing more than busy work which you are imposing upon the Conservation Commission's staff for no purpose other than to cause wasted time and effort. Nevertheless, as previously noted, we will forward copies of the hard copy files once the copying is complete.

Your demand for a log - detailing by type, author, recipient, subject and date - of all materials which are exempt from disclosure is beyond the scope of the requirements of the Massachusetts Public Records Law. This is especially true here, where the overly broad nature of your requests involves thousands of pages of documents. As we advised you in the Town's initial written response, the Town would not be producing documents which are privileged under the attorney-client privilege or under the deliberative process exemption. As you are also very well aware, we objected to your demand for e-mails between Selectman Atherton and his wife under the privacy exemption to the Massachusetts Public Records Law. Other than e-mails falling within these categories, Selectman Atherton's e-mails have been produced to you in their entirety, no matter how irrelevant or duplicative of e-mails previously produced through Town Administration.

Your threatened lawsuit is entirely unnecessary. In fact, it appears to be a purposeful abuse of the Public Records Law in an effort to intimidate individuals who also happen to be public officials or their spouse from exercising their right to participate in public proceedings and to petition their government on public matters involving erosion control issues at Sconset Bluff.

Very truly yours,



George X. Pucci

GXP/man

cc: Town Manager (by electronic mail)
Natural Resources Coordinator (by electronic mail)
Supervisor of Records (via Patricia Rastellini, by electronic mail)